

# STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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May 14, 1998

Hon. Magalie Roman Salas  
Secretary  
Federal Communications  
Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: In the Matter of Federal-State Joint Board on Universal  
Service -- CC Docket No. 96-45, In the Matter of  
Forward-Looking Mechanism for High Cost Support For  
Non-Rural LECs -- CC Docket No. 97-160, DA 98-715

Dear Secretary Salas:

The New York State Department of Public Service (NYDPS) offers these comments in support of the proposed federal "high cost" funding mechanism (hereinafter referred to as the Ad Hoc Plan) submitted by the Ad Hoc Working Group in the above-captioned proceeding. The core purpose of the Ad Hoc Plan is to address the state-to-state cost variation that is the legitimate purpose of a federal "high cost" program.

The purpose of any federal "high cost" program should be to mitigate unusually large variances above the national average cost of providing universal telecommunications services in order to enable states to maintain affordable basic rates. The federal high cost program should neither affect intrastate rate rebalancing in anticipation of competition nor promote the deployment of telecommunications capabilities beyond the Commission's universal service definition.

By focusing on state-to-state cost variations and allowing states flexibility in the competitively neutral distribution of funds, the Ad Hoc Plan achieves the Act's "comparable" rate requirement, while appropriately preserving state responsibility for maintaining affordable local services. It provides high cost states, through explicit interstate revenue flows, the ability to establish and maintain basic service rates

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in their urban and rural areas that are "reasonably comparable," both to each other and to rates in other regions. Each state receiving federal funding under this plan would be responsible for disbursing those funds, on a competitively-neutral basis, among eligible telecommunications carriers. The state would have sufficient flexibility to tailor its distribution to accommodate state-specific circumstances, including existing rate structures, de-averaged network elements rates, and intrastate universal service funding mechanisms. As the Commission recognized in its Order<sup>1</sup>, it is the states that are ultimately responsible for determining and maintaining rate affordability. This plan assists them in fulfilling that responsibility.

Although New York is a "high cost" state, experiencing costs for the provision of basic service that are at least ten percent above the national average, it has been a net contributor to the federal "high cost" programs (DEM weighting and Universal Service). It continues to support the existing level of financial commitment to achieve affordable rates in other states, but it would be unreasonable to expect New York (and several other similarly situated states) to make even larger net contributions to a greatly expanded federal "high cost" fund. The Ad Hoc Plan, therefore, includes a "hold harmless" provision for such states and indirectly constrains the overall size of the federal fund.

These factors are critical to New York's support of the plan. We urge you to recognize our concerns and adopt the Ad Hoc Plan. Of course, we look forward to continuing discussion to resolve this very difficult issue.

Sincerely,



Lawrence G. Malone  
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<sup>1</sup> Federal State Joint Board on Universal Service, Report and Order, CC Docket No. 96-45, 12 FCC Rcd 8776, para. 118 (1997).

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